

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF VIRGINIA
3 ALEXANDRIA DIVISION

4 Case No.: 1:16CV664-GBL-MSN

5 - - - - -X
6 CAPITOL PROPERTY MANAGEMENT
7 CORPORATION,

8 Plaintiff,

9 vs.

10 NATIONWIDE PROPERTY AND CASUALTY
11 INSURANCE COMPANY,

12 AND

13 NATIONWIDE MUTUAL INSURANCE COMPANY,

14 AND

15 NATIONWIDE MUTUAL FIRE INSURANCE
16 COMPANY,

17 Defendants.
18 _____/

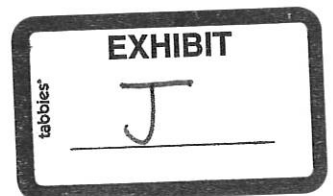
19 DISCOVERY DEPOSITION OF

20 ROBERT G. HINTON

21 Pages 1 through 68

22 Wednesday, January 4, 2017
23 1:16 p.m. - 2:59 p.m.

24 PHIPPS REPORTING - Microtel Inn & Suites
4881 Commercial Way
Spring Hill, Florida



1 the lawsuit.

2 A Yes.

3 Q All right. Now, let's talk about the
4 10 percent insurance claim processing fee.

5 A Okay.

6 Q Other than what's set forth in Exhibit 7, are
7 there any other grounds that you're aware of as to why
8 that would not be covered under the policy?

9 A Well, I think that -- I think that I wrote a
10 second letter in February of 2016 that further explains
11 our position in regard to the insurance claim processing
12 fee.

13 MR. BROWN: Hang on one second. Let me see if
14 I can find that letter. If you would go to
15 Exhibit 17. Ms. Court Reporter, if you could mark
16 Exhibit 17.

17 THE WITNESS: Okay. I have Exhibit 17.

18 (Exhibit 17 was marked for identification.)

19 BY MR. BROWN:

20 Q Is that the letter that you were making
21 reference to, the second letter?

22 A It is.

23 Q Okay. This is also a letter authored by you
24 dated February 3rd, 2016, addressing the insurance claim
25 that is the subject of this lawsuit, correct,

1 Mr. Hinton?

2 A Yes. This is a letter in response to the
3 public adjuster asking us to reconsider their claim for
4 the insurance claim processing fee of 10 percent.

5 Q Other than Exhibit 7, which we just looked at,
6 and now Exhibit 17, the two letters that you wrote, are
7 you aware of any other grounds for denial of the
8 10 percent insurance processing fee claim?

9 MS. SKILLING: Object to the form.

10 THE WITNESS: Based on the information we had
11 at the time, I'm not aware of any other
12 information.

13 BY MR. BROWN:

14 Q Well, how about today, the information you
15 have today, Mr. Hinton?

16 A No. There's --

17 MS. SKILLING: Object to the form.

18 BY MR. BROWN:

19 Q Are there any other grounds that would support
20 the denial of this portion of the claim?

21 A Well, I'll say no, but we reserved our rights
22 to review any additional information anybody wanted to
23 provide to us.

24 Q So you're not aware of anything outside of
25 these two letters that supports the denial of this

1

ERRATA SHEET

2

DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES

3

IN RE: CAPITOL PROPERTY MANAGEMENT CORP vs. NATIONWIDE

WITNESS: ROBERT G. HINTON

4

DATE OF DEPOSITION: January 4, 2017

5

PAGE

LINE

CHANGE

REASON

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0515GLENNSPELLING

7

2404ADKINSSPELLING

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20

Under penalties of perjury, I declare that I have read

21

the foregoing document and that the facts stated in it

22

are true.

23

JANUARY 31, 2017

DATE

Robert G. Hinton
ROBERT G. HINTON

24

25

Reporter: Cynthia L. Braun, RPR



On Your Side*

Nationwide Insurance
Allied Insurance
Nationwide Agribusiness
Titan Insurance
Victoria Insurance

Gunston Corner Condominium Association

Goodman-Gable-Gould / Adjusters International
9011 Arboretum Parkway, Suite 302
Richmond, Virginia 23236

Attention: Anthony D'Amico

Delivered via Electronic Mail Only to tdamico@gggco.com

Date prepared February 3, 2016
Claim number 53 45 PE 056233
05272014 51

Questions? Contact Claims Associate
Robert Hinton
hintor1@nationwide.com
Phone (352) 573-0374

Claim details

Insurer: Nationwide Property & Casualty Insurance Company
Policyholder: Gunston Corner Condominium Association
Claimant:
Claim number: 53 45 PE 056233 05272014 51
Loss date: 05-27-2014
Loss location: 8224 Catbird Circle, Lorton, VA 22079

Dear Mr. D'Amico,

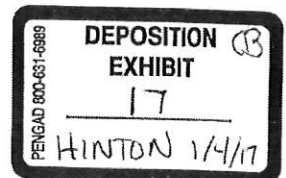
This letter is in response to your presentation of a claim for Capitol Property Management (Capitol), the management company for Gunston Corner Condominium Association (The Association). They are asserting a claim for ten percent of the amount paid on the claim as an insurance claim processing fee under their management contract with The Association.

It is questionable whether The Association has the right to assign their rights under the policy to Capitol without our consent. Regardless, and without waiving our right to reject such assignment, we reviewed the management contract and the policy and we have concluded that coverage does not apply for this claim.

The management contract authorizes Capitol to render various services on behalf of the Association, including without limitation, property management, maintenance, conducting inspections, notifying The Association of actions to comply with government regulations, purchasing appropriate insurance, collecting assessments, maintaining depository accounts and reserve funding, maintaining various financial reports and records and preparing a budget. The management contract also provides that Capitol will be reimbursed "10% of claim received" for "insurance claim processing". Capitol is paid a monthly fee of \$5,057.50 for the foregoing services set forth in the management contract.

Coverage is provided by the Businessowners Premier Property Coverage Form (PB 00 02 04/11) for direct physical loss of or damage to Covered Property caused by or resulting from any Covered Cause of Loss. The insurance claim processing fee does not constitute direct physical loss or damage to covered property.

The coverage form includes the Additional Coverage - Extra Expense. The policy provides that we will pay for necessary extra expenses that the Insured incurs during the period of restoration that they would not have incurred if there had been no direct physical loss of or damage to Covered Property.



Virginia law requires the following: It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.



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Victoria Insurance

Extra Expense means an expense incurred to avoid or minimize the suspension of business and to continue operations at the described premises; to minimize the suspension of business if the Insured cannot continue operations; and to repair or replace any property or restore the lost information on damaged valuable papers and records to the extent it reduces the amount of loss that otherwise would have been payable under the Extra Expense Additional Coverage or the Business Income Additional Coverage.

The insurance processing fee does not constitute an extra expense because the fee is not a necessary expense incurred to avoid or minimize the suspension of business and to continue The Association's business activities occurring at the described premises.

In summary, we reserve our right to reject whether The Association has the right to assign their rights under the policy to Capitol. Regardless, the insurance processing fee does not constitute direct physical loss to covered property. The insurance processing fee does not meet the definition of an extra expense.

Neither this letter nor any investigation undertaken by Nationwide Property & Casualty Insurance Company is intended to waive any rights of either party under the policy. Nationwide Property & Casualty Insurance Company continues to reserve all of its rights under the policy and agrees that your rights are also reserved.

Thank you for choosing us for your important insurance protection. If you have any questions or concerns, please contact me at (352) 573-0374 or hintor1@nationwide.com.

Sincerely,

Robert Hinton
Nationwide Property & Casualty Insurance Company
Commercial Claims General Adjuster
Commercial Property Technical Claims

CC: Keith Puffenbarger Agency

Virginia law requires the following: It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.



53 056233 - Gunston Corner Condominium Association

Robert G Hinton for Tony D'Amico

cc Wilton Elmore, Robert G Hinton

02/05/2016 09:38 AM

Mr. D'Amico,

Attached please find our coverage position letter.

Regards,
Bob

PDF

056233_Letter_02_03_16.pdf



Nationwide®
is on your side

Robert G. Hinton

Commercial Claims General Adjuster

Commercial Property Technical Claims

W 352-573-0374 | C 352-573-0374 | F 866-205-5479

hinton1@nationwide.com

- ☐ Nationwide Mutual Insurance Company
- ☐ AMCO Insurance Company
- ☐ Allied Property and Casualty Insurance Company
- ☐ Depositors Insurance Company
- ☐ Nationwide Insurance Companies of America
- ☒ Nationwide Property and Casualty Insurance Co.
- ☐ Nationwide Mutual Fire Insurance Company
- ☐ Nationwide Agribusiness Insurance Company